ORIGINAL

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

MELISSA BASTIAN,

Plaintiff,

- against -

NEW YORK CITY DEPARTMENT OF EDUCATION,

Defendant.

CV No.: 13-CV-5792

----------x

1461 Franklin Avenue
Garden City, New York

September 3, 2014
2:04 p.m.

Deposition of the Defendant, by HENRY RUBIO, pursuant to Notice, before Florence Syskrot, a Notary Public of the State of New York.

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A P P E A R A N C E S:

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Q. In each of those times, were the complaints made in that case, did they relate to racial discrimination?

A. I believe if it is two, both of them were. Maybe one was not. I don't remember.

Q. How old are you?

A. Forty.

Q. Are you currently employed?

A. Yes.

Q. Where are you employed?

A. Department of Education.

Q. Is there a particular area within the Department that you are working?

A. I am a High School Principal. I'm assigned to work for the Council for School Administrators, which is the union for the New York City school leaders.

Q. Is that known as the CSA?

A. That is correct.

Q. What position do you hold within the CSA?

A. Aside from my full-time employment, do you mean?

Q. Maybe I'm confused. You said you are a High School Principal?

A. Got it. I understand.

Q. Where are you working full-time?

A. I work for the CSA. I'm sorry. I work for the Department assigned to the CSA. And my title there is Intervenor.

Q. As Intervenor what are your job duties? What do you do?

A. Sure. I coach and mentor Principals and Assistant Principals.

Q. Is that your full-time job, though?

A. This is correct.

Q. When you go to work everyday, you are going to work at the CSA?

A. I go to three different schools a day.

Q. Explain to me, on a normal day, what does it entail?

A. I do basically site visits to my clients. I go to their schools to provide mentoring and coaching to the Principals and the Assistant Principals.

Q. You do that every single day?

A. No.

Q. Do you have an office, like a central office?

A. Yes.

Q. Where is that located?

A. 40 Rector Street, which are the CSA offices.

Q. On a normal day you would go to that office?

A. Most days I'm at a school. On average two days a month. I would be at the office on average two days a month.

Other than that, I'm in different schools coaching and mentoring Principals.

Q. Prior to working at the CSA, where did you work?

A. Sure. I was the Principal of the A. Philip Randolph Campus High School.

Q. Is that in New York City?

A. Yes.

Q. Is that in Harlem?

A. Yes.

Q. When did you begin working in A.

Philip Randolph?

A. November of 2006.

Q. When you began in November of 2006, what title did you hold at A. Philip Randolph?

A. High School Principal.

Q. When did you leave Randolph?

A. I think it was December of 2011, I believe.

Q. Do you recall who took over for you?

A. David Fanning.

Q. At the time that you left in December of 2011, what position did you hold at Randolph?

A. Principal.

Q. You were Principal from November 2006 continuously until December 2011?

A. That is correct.

Q. Immediately thereafter you went to work at the CSA?

A. That is correct.

Q. Do you know whether Mr. Fanning is still Principal at A. Philip Randolph?

A. That I know of.

Q. I'm sorry?

A. That I know of.

Q. Do you have any reason to believe that he is not the Principal at A. Philip Randolph?

A. No.

Q. Were you involved at all in the decision to have Mr. Fanning replace you?

A. No.

Q. The decision to leave the school during the '11 '12 school year, was that a voluntary decision?

A. Absolutely.

Q. Did anyone ask you to leave the school at that point?

A. No.

Q. Why did you decide to leave Randolph in December of 2011?

A. What I'm currently doing is a better job.

Q. You were offered a better position and you took it?

A. I applied. I was offered. And I

A. The Dominican Republic.

Q. Did you grow up at any point in the Dominican Republic?

A. No.

Q. Where did you move when you were five?

A. Queens.

Q. You would identify yourself as a Dominican American?

A. American Dominican.

Q. Are you familiar with the organization known as ADASA?

A. Absolutely.

Q. What does ADASA stand for?

A. ADASA is the acronym for the American Dominican Association Supervisors and Administrators.

Q. Are you a member of ADASA?

A. Yes.

Q. How long have you been a member of ADASA?

A. I don't know. I would have to guess roughly. Roughly ten years. Approximately ten years.

A. Yes, he is.

Q. Do you recall when Mr. Calcano was intially hired?

A. I can't remember either.

Q. Were you involved in the decision to hire him?

A. Yes.

Q. It was while you were the Principal of Randolph?

A. Yes.

Q. Mr. Calcano is Hispanic?

A. Yes.

Q. He is also Dominican, correct?

A. That is correct.

Q. Is he also a member of ADASA?

A. I think he is. I think he is now.

Q. After you departed Randolph, have you remained in communication with Mr. Calcano?

A. Yes.

Q. Are the two of you friends?

A. I would say so.

Q. Prior to hiring Mr. Calcano, did

that space in the Guidance suite?

A. Yes, in those spaces. In there, yes.

Q. Do you recall whether Miss Bastian ever asked you specifically to move from where she was working into the Guidance suite?

A. I don't remember.

Q. The Guidance suite, did the Guidance suite have air-conditioning?

A. I think -- well, I believe when I first came there as Principal, only one office did. And that was the office of the Assistant Principal.

Over time I think, I'm not sure when, we started putting ACs in all the offices to kind of air condition the entire suite. Even that, I don't remember exactly.

Q. But the Guidance suite, there is an Assistant Principal that worked in that suite?

A. When I got there and maybe again at some other point, who was in charge of the Guidance Counselors and the Attendance, which

A C K N O W L E D G M E N T

STATE OF NEW YORK)
:ss
COUNTY OF NASSAU)

I, HENRY RUBIO, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of September 3, 2014; that the transcript is a true, complete and correct record of my testimony, and that the answers on the record as given by me are true and correct.

HENRY RUBIO

Signed and subscribed to before me, this 18th day of February, 2015.

Notary Public, State of New York

STEVEN BEYLIS
Notary Public - State of New York
NO. 01BE6287345
Qualified in Kings County
My Commission Expires Aug 5, 2017

C E R T I F I C A T E

STATE OF NEW YORK)
) ss.:
COUNTY OF NASSAU)

I, FLORENCE SYSKROT, a Notary Public within and for the State of New York, do hereby certify:

That HENRY RUBIO, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of September, 2014.

Florence Syskrot

FLORENCE SYSKROT

CORRECTIONS TO DEPOSITION

Directions: As you read your deposition, if you have any corrections to make, please itemize them below. Upon completion, follow the instructions in the cover letter.

Date of Deposition: September 3, 2014

Person Deposed: Henry Rubio

Page	Line	Explanation/Change
9	15	"I usually go to 1-3 schools a day"
22	17	"Assoc. of Dominican American Supervisors & Administrators"
73	3	"inputted by the Assistant principal into a system."

Sworn to before me this
18th day of February, 2015

Notary Public

Deponent

STEVEN BEYLIS
Notary Public - State of New York
NO. 01BE6287345
Qualified in Kings County
My Commission Expires Aug 5, 2017

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